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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/645,092 | 08/21/2003 | Kevin Shannon. | US0304/184 | 7311 |

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EXAMINER

OLSON, LARS A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3617

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 10/645,092 | Applicant(s) SHANNON, KEVIN | |
| | Examiner Lars A Olson | Art Unit 3617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10, 11 and 13-18 is/are rejected.
- 7) ☒ Claim(s) 8, 9 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>08212003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4-7, 10 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ostergaard (US 5,553,426) in view of Beroud (US 1,425,361).

Ostergaard discloses a gravesite memorial display, as shown in Figures 1-7, that is comprised of a thermoplastic shell, defined as Part #10, that is structured to enclose a watertight interior, as shown in Figure 1, said shell being further comprised of a fixed portion or container, defined as Part #12, and a movable portion or lid, defined as Part #44, that is coupled to said fixed portion by means of hinges, defined as Part #164, a latching means, defined as Part #88, for securely holding said movable portion in a closed position, as shown in Figure 2, a locking means, defined as Part #70, that is provided on said shell, a seal, defined as Part #270, in the form of a rubber gasket that is fixed to said fixed portion and is structured to form a watertight seal where edge portions of said movable portion contact edge portions of said fixed portion, as shown in Figure 7, and a means for maintaining said display at a selected location and orientation, defined as Parts #14 and 16, said means being in the form of an anchor or base.

Ostergaard, as set forth above, discloses all of the features claimed except for the use of a transparent portion that is fixed to either a fixed portion or a movable portion of a gravesite memorial display, and a plurality of downwardly extending stakes.

Beroud discloses a grave marker display, as shown in Figures 1-5, that includes a fixed portion, defined as Parts #5-9, a movable portion, defined as Part #13, with a transparent portion in the form of a glass plate, defined as Part #17, and a plurality of downwardly extending stakes, defined as Parts #10 and 11.

The use of a gravesite memorial display with a shell comprised of a fixed portion and a movable portion having a specific shape would be considered by one of ordinary skill in the art to be a design choice based upon the desired or required storage volume and dimensions within said shell.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a grave marker display with a movable portion having a transparent glass panel, and a fixed portion having a plurality of downwardly extending stakes, as taught by Beroud, in combination with the gravesite memorial display as disclosed by Ostergaard for the purpose of providing a display with a transparent lid portion that allows for viewing of an object held within said display without opening said lid portion, and a means for providing greater stability when installing said display into the ground.

3. Claims 2, 3, 11, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ostergaard in view of Beroud, and further in view of Britton (US 1,924,149).

Ostergaard in combination with the teachings of Beroud shows all of the features claimed except for the use of at least one flower holder that is fixed to a shell of a gravesite memorial display.

Britton discloses a grave marker and flower holder, as shown in Figures 1-4, that includes at least one flower holder, defined as Part #10, that is fixed to a shell or housing, defined as Part #25.

The use of a plurality of flower holders on a gravesite memorial display instead of a single flower holder would be considered by one of ordinary skill in the art to be an obvious multiplication of parts for the purpose of providing a means for displaying a larger number of flowers on said display.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize at least one flower holder on a grave marker, as taught by Britton, in combination with the gravesite memorial display as disclosed by Ostergaard and the teachings of Beroud for the purpose of providing a fixed means for displaying flowers on a gravesite memorial display in order to make said display more aesthetically pleasing to a viewer.

Allowable Subject Matter

4. Claims 8, 9 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3617

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Morvant (US 4,790,088) discloses a grave marker display with a fixed portion and a movable portion that is hinged to said fixed portion. Harner (US 2,332,217) and Coleman (US 1,966,922) both disclose a grave marker with a fixed portion, a transparent portion, and a downwardly extending stake portion.

6. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (703) 308-9807.

lo

September 20, 2004

LARS A. OLSON
PATENT EXAMINER

Lars Olson
9/20/04